

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

SETH PERLMAN,)
)
)
Plaintiff,)
v.)
)
)
CITY OF OMAHA,)
)
)
Defendant.)

8:04CV108

Before the Court is Plaintiff's Statement of Appeal of Magistrate Judge's Order (#67) dated February 24, 2006.

IT IS ORDERED that Plaintiff's Appeal is denied and Magistrate Judge's Order is affirmed.

It appears from the brief of Plaintiff in support of his appeal that Sgt. Bobby Polk, a key witness, has returned to the City of Omaha though he has not yet returned to duty with Defendant, City of Omaha.

IT IS FURTHER ORDERED that Defendant City of Omaha shall immediately, by the close of the business day, provide contact information to Plaintiff so Plaintiff can serve a subpoena on Sgt. Bobby Polk requiring his attendance at the trial.

DATED March 1, 2006.

BY THE COURT:

/s Ralph R. Erickson
United States District Judge